

a rules engine containing a set of rules for determining a discount step for the product in accordance with the volume licensing agreement;

a pricing generator to calculate a purchase price for the product in accordance with the discount step and the purchase history, wherein the pricing generator determines whether the discount step is current and, if the discount step is not current, determines a new discount step and updates the purchase price; and

a purchase generator to display the purchase price and transact a purchase of the product in response to a user request.

Thus, Applicants claim calculating a purchase price for a product in accordance with a discount step under a volume license agreement (VLA) and a purchase history for the product. Claim 10 is drawn to a computer-readable medium having computer-executable instructions, and recites similar limitations. Claim 17 is drawn to a computer-implemented method, and recites similar limitations. A proper rejection under 35 U.S.C. § 103 requires that a prior art reference, or references when combined, must teach or suggest all of the claim limitations of the rejected claim. See MPEP § 2143.

*Misra* discloses a software licensing system that includes a license generator located at a licensing clearinghouse, and at least one license server and multiple clients located at a company or entity. See col. 2, lines 12-31. Applicants agree with the Examiner that *Misra* does not teach or suggest a rules engine containing a set of rules for determining a discount step for the product in accordance with the volume licensing agreement; a pricing generator to calculate a purchase price for the product in accordance with the discount step and a purchase history, wherein the pricing generator determines whether the discount step is current and, if the discount step is not current, determines a new discount step and updates the purchase price; or a purchase generator to display a purchase price and transact a purchase of the product in response to a user request. See Office Action, page 3, lines 1-2; page 4, lines 1-2 and 8.

*Pallakoff* discloses a marketing method and system that aggregates demand and provides demand-based pricing, in which prices go down as the volume of units sold goes up. See col. 1, lines 53-55; col. 2, lines 27-28. If a number of demands for a product reaches a maximum limit, or if the number of demands exceeds a threshold amount by the end of a predetermined time period, a final price is determined based on predetermined prices associated with demand thresholds. See col. 8, lines 5-32. *Pallakoff* does not teach or suggest a pricing generator to

calculate a purchase price for a product in accordance with a discount step and a purchase history, wherein the pricing generator determines whether the discount step is current and, if the discount step is not current, determines a new discount step and updates the purchase price.

Thus, *Pallakoff* fails to cure the deficiencies of *Misra*.

*Ginter* discloses a virtual distribution environment (VDE), wherein a licensing history is metered, so that a content provider can charge fees based on the total number of different properties licensed from the provider. See col. 20, lines 39-43. *Ginter* also discloses maintaining a usage history, for licensing or purchase discounts based on historical use. See col. 24, lines 9-18 and 24-31; col. 151, lines 53-57; col. 154, lines 5-11. However, *Ginter* does not disclose a pricing generator to calculate a purchase price for a product in accordance with a discount step and a purchase history, wherein the pricing generator determines whether the discount step is current and, if the discount step is not current, determines a new discount step and updates the purchase price. Thus, *Ginter* fails to cure the deficiencies of *Misra* and *Pallakoff*. Therefore, no combination of *Misra*, *Pallakoff* and *Ginter* teaches or suggests all the limitations of claims 1, 10, and 17. Consequently, claims 1, 10 and 17 are not rendered obvious by *Misra* in view of *Pallakoff* and *Ginter* for at least the reasons set forth above. Applicant therefore respectfully requests that the Examiner withdraw the rejection of claims 1, 10 and 17 under 35 U.S.C. § 103.

Claims 2-6 and 8-9 depend from claim 1. Claims 11-14 and 16 depend from claim 10. Claims 18-22 and 24 depend from claim 17. Because dependent claims include the limitations of the claims from which they depend, Applicants submit that claims 2-6, 8-9, 11-14, 16, 18-22 and 24 are not rendered obvious by *Misra* in view of *Erickson* and *Pallakoff* for at least the reasons set forth above.

Examiner states that a “volume discount can be set as a pre-determin[ed] criterion of discounting,” and/or based on “historical purchasing of end user activities base[d] on a license agreement,” and that it would have been obvious to add to the “licensing management system” in

*Misra* the “well-known practice of volume discount pricing ... in conjunction with a past purchasing history to calculate a discount level.” See Office Action, page 5, lines 3-8.

Even if volume discount purchasing is a known business practice, that does not mean it would be obvious to add volume discount pricing to the software licensing system in *Misra*. Although an Office Action may suggest that an element of a primary prior art reference *could* be modified to form the claimed structure, the mere fact that the prior art *could* be so modified would not make the modification obvious unless the prior art suggested the desirability of the modification (emphasis added). In re Laskowski, 871 F.2d 115, 10 USPQ2d 1397 (CAFC 1989). There must be some supporting teaching in the prior art for the proposed modification to be proper. In re Newell, 891 F.2d 899, 13 USPQ2d 1248 (CAFC 1989). *Misra* does not teach or suggest adding volume discount pricing to a software licensing system.

Examiner states that providing a mechanical or automatic means to replace manual activity that has achieved the same result involves only routine skill in the art. Claim 1 recites a purchase generator to display the purchase price and transact a purchase of the product in response to a user request. The manual administration of volume license agreements does not involve a purchase generator to display the purchase price and transact a purchase of the product in response to a user request.

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